THE HON'BLE SRI JUSTICE D.S.R. VARMA
AND
THE HON'BLE SRI JUSTICE K.C. BHANU

WRIT PETITION No.24166 of 2007

DATED : 19-11-2007

Between :

Y. Tata Rao, s/o. Bhushaiah,
Aged 57 years, Medical Record Officer,
Ranga Raya Medical College,
Kakinada, East Godavari District.

...Petitioner.

AND

The Regional Director of Medical &
Health Services,
Rajahmundry,
East Godavari District and 3 others.

...
Respondents.

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ORAL ORDER : (per the Hon'ble Sri Justice D.S.R. Varma)

Heard Sri P.V.Krishnaiah, learned counsel for the petitioner and the learned Government Pleader for Medical, Health and Family Welfare.

2. This writ petition is filed seeking to declare the proceedings in Rc.No.986/R2.A/2004, dated 17-06-2006 issued by

the first respondent as arbitrary, illegal, malafide, unconstitutional, violative of Articles 14, 16 and 21 of the Constitution of India and also contrary to A.P.Medical Subordinate Service Rules, Branch-3 (General) and set aside the same, including the orders of the Hon'ble A.P. Administrative Tribunal (for brevity 'the Tribunal'), dated
05-11-2007, passed in O.A.No.5279 of 2006.

3. The facts, in brief, are that the petitioner was originally appointed as a Medical Lab Technician in Ranga Raya Medical College, Kakinada, East Godavari District, second respondent herein, and subsequently vide proceedings, dated 26-10-1994, he was promoted as Medical Record Officer. On 17-01-2006, a show cause notice was issued by the Regional Director of Medical & Health Services, Rajahmundry, first respondent herein, asking the petitioner to show cause as to why his promotion orders should not be cancelled and why he should not be reverted to the lower post. The same was assailed before the Tribunal, by way of O.A.No.878 of 2006. On 08-02-2006, the Tribunal, while admitting the O.A., granted interim orders directing the respondents not to take any further action pursuant
to the show cause notice. Subsequently, by order, dated
01-05-2006, the Tribunal modified the same directing the petitioner to submit explanation within two weeks and with liberty to the respondents to pass final orders thereafter, inasmuch as it was only a show cause notice that was under challenge before the Tribunal. However, consequent upon the said orders, the explanation was offered by the petitioner on 22-05-2006 and having considered the same, first respondent herein had passed orders on 17-06-2006 holding that the explanation is not accepted. Assailing the same, the petitioner filed O.A.No.5279 of 2006. After hearing both the O.As. i.e., O.A.No.878 of 2006 and O.A.No.5279

of 2006 and having considered the entire material on record, the Tribunal, by order, dated 05-11-2007, passed the following order:

> ".....The applicant in this O.A., relying upon the judgment of the Hon'ble Supreme Court submits that in view of continuance working as M.R.O. for over 13 years the respondents are liable to regularize the services of the applicant and it is further submitted that the 4th respondent's appointment in Rangaraya Medical College, Kakinada is contrary to the Presidential Order. These issues have not been considered by the 1st respondent and that no final order has been passed so far. It is for the 1st respondent to take into consideration all the relevant factors and pass final order and it is not appropriate for this Tribunal to express any opinion in the matter at this stage. Therefore, O.A.No.878/2006 is dismissed and O.A.No.5279/2006 is disposed of, with a direction to the respondents to maintain the status quo of the applicant for a period of one month and the respondents shall pass orders as per the above observation....."

4. From the above order, it is obvious that the Tribunal had directed the respondents to maintain *status quo* for a period of one month and shall pass final orders. Further, it appears, the Tribunal found that the petitioner, relying on a judgment of the apex Court, has been challenging the impugned orders of the first respondent, which was passed revising the orders, after 13 years of his promotion as Medical Record Officer.

5. According to the learned counsel for the petitioner, the said order is contrary to Rule 23 of the A.P.State and Subordinate Service Rules, 1996 (for brevity 'the Rules'), which postulates that the revision can be exercised by the appellate authority within six months from the date of such order. However, power has been conferred by the Government to revise any such order at any time *suo motu*. Therefore, he contended that since the impugned order has been passed after a long lapse of 13 years, the same is very much contrary to Rule 23 of the Rules.

6. We need not go into all these contentions, issues and interpretation of the Rules, inasmuch as the Tribunal had already taken into account these contentions and accordingly directed the respondents to pass final orders within a period of one month and to maintain *status quo,* including the continuation of the petitioner

in the same capacity in which he has been continuing, during that period.

7. Basically, the whole controversy had emanated from the show cause notice. Of course, it has taken a new twist because of the order passed by first respondent by rejecting the applications made by the petitioner and, therefore, virtually the Tribunal had to necessarily go into the merits of the case.

8. But, as could be seen from the above said order, the Tribunal did not enter into the contentions and issues at all, nor did express any final opinion on those issues. In other words, the matter has been left with the respondents to consider the case of the petitioner within a period of one month and to maintain *status quo* till then.

9. We do not see any apparent prejudice that is likely to be caused to the petitioner in any manner, inasmuch as *status quo* was directed to be maintained for a period of one month by which period the respondents were directed to pass final orders. The interest of the petitioner is no way effected as of now, since the larger issue, both on facts and law, is yet to be decided by the Court of first instance i.e., the Tribunal.

10. Therefore, suffice to close the writ petition with a direction to the respondents to pass final orders, as expeditiously as possible, and to maintain *status quo* for all purposes till then.

11. With the above said directions, the writ petition is closed, at the stage of admission. However, there shall be no order as to costs.

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JUSTICE D.S.R.VARMA

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JUSTICE K.C. BHANU

19-11-2007
Msr.

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